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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,879	03/10/2006	Erwan Pincemin	2085-102US	7824
25881 7590 09/23/2008 EPSTEIN DRANGEL BAZERMAN & JAMES, LLP 60 EAST 42ND STREET SUITE 820 NEW YORK, NY 10165				
EXAMINER				
PHAN, HANH				
ART UNIT		PAPER NUMBER		
2613				
MAIL DATE		DELIVERY MODE		
09/23/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/553,879

Applicant(s)

PINCEMIN, ERWAN

Examiner

Hanh Phan

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 8-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 21 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

-In the abstract section, the form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. For example, in the abstract, the phrases such as "time synchronization means", "intensity fluctuation stabilization means", "noise suppression means", "the synchronization means" and "the stabilization means" should be avoided.

-The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

3. Claims 8-11 are objected to because of the following informalities:

In claim 8, line 1, the phrase "A device (12) for optical regenerating DM soliton pulses" should be changed to -- A device (12) for optical regenerating dispersion-managed (DM) soliton pulses--.

In claim 9, line 1, the phrase "A device according to claim 1" should be changed to --A device according to claim 8--.

In claim 10, line 1, the phrase "A device according to claim 1 or claim 2" should be changed to --A device according to claim 8--.

In claim 11, lines 7 and 8, the phrase "a device for optically regenerating DM soliton pulses in according with any one of claims 1 to 3;" should be changed to -- a device for optically regenerating DM soliton pulses in according with claim 8--.

Appropriate correction is required.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 8-11 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 7,298,948 (Pincemin). Although the conflicting claims are not identical, they are not patentably

distinct from each other because the limitations recited in claims 8-11 of the instant application are encompassed by claims 1-14 of U.S. Patent no. 7,298,948 (Pincemin).

Instant application No. 10/553,879 (Claim 8)	US Patent No. 7,298,948 (Pincemin)(Claim 14)
A device (12) for optically regenerating dispersion-managed (DM) soliton pulses for use in optical propagation means comprising first propagation means (10a) having abnormal dispersion and second propagation means (10b) having normal dispersion, said device comprising a synchronous intensity modulator (14) serving, when placed in the vicinity of the junction between the first and second propagation means (10a, 10b), to perform time synchronization on DM soliton pulses passing through it and intensity fluctuation stabilization on said pulses, the device being characterized by the fact that it comprises noise suppression means (16) for suppressing	A device (12) for optically regenerating dispersion-managed (DM) soliton pulses for use in optical propagation means comprising first propagation means having abnormal dispersion and second propagation means having normal dispersion, said device comprising an optical bandpass filter serving, when placed in the vicinity of the junction between the first and second propagation means, to perform time synchronization on DM soliton pulses passing through it and intensity fluctuation stabilization on said pulses, the device being characterized by the fact that it comprises noise suppression means for suppressing amplified spontaneous

amplified spontaneous emission noise and that are distinct from the synchronous intensity modulator (14).	emission noise and that are distinct from the optical bandpass filter (i.e., Claim 14).
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Pincemin (US Patent No. 7,298,948) differs from claim 1 in that he fails to specifically teach an intensity modulator. However, it would have been obvious to obtain the optical intensity modulator in order to provide time synchronization and intensity stabilization of the soliton pulses.

Regarding claim 9, as similarly described above, Pincemin (US Patent No. 7,298,948) teaches in which the noise suppression means comprise a saturable absorber (i.e., Claim 4 of US Patent No. 7,298,948).

Regarding claim 10, as similarly described above, Pincemin (US Patent No. 7,298,948) teaches in which the noise suppression means are disposed upstream from the synchronous intensity modulator in the propagation direction of the DM soliton pulses when the device is inserted in the propagation means 9i.e., claim 14 of US Patent No. 7,298,948).

Regarding claim 11, as similarly described above, Pincemin (US Patent No. 7,298,948) teaches an installation for optically transmitting DM soliton pulses, the installation comprising: propagation means comprising first propagation means having abnormal dispersion and second propagation means having normal dispersion and the synchronous intensity modulator of the regenerator device being installed in the vicinity

of the junction between the first and second propagation means (i.e., claim 14 of US patent No. 7,298,948).

Allowable Subject Matter

6. Claims 8-11 are allowed (if overcome the objection and the double patenting rejection above).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Desurvire (US Patent No. 6,327,061) discloses optical transmission system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

/Hanh Phan/

Primary Examiner, Art Unit 2613

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